

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 428 of 2000

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

JETHVA KANTILAL PURSHOTTAM

Appearance:

MR HARDIK C RAWAL for Petitioner

MR GK RATHOD for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 03/03/2000

ORAL JUDGEMENT

1. Rule. Mr. G.K. Rathod waives service on behalf
of the respondent. On a joint request of learned counsel
for the respective parties this petition is taken up for
final hearing today.

2. This is a petition under Article 227 of the
Constitution of India though styled as one under Articles
14, 226 and 227 of the Constitution, at the instance of
the Gujarat State Road Transport Corporation, challenging

the judgement and award passed by the Labour Court, Palanpur, in Reference (LCP) No.74/97.

3. The respondent workman was engaged as a conductor with the petitioner-Corporation, who on the date of checking was on duty on a particular route, and was found to have collected the fare earlier from three passengers of one group, but not having issued tickets to them till the point of checking. He was, therefore, subjected to a disciplinary inquiry wherein the above incident was the substance of the charge, together with other charges to the effect that during the checking he had behaved in a rude and insulting manner, did not follow the directions of the superior officers during the checking, he had intentionally and deliberately not closed the way bill, etc. As a result of the disciplinary inquiry he was found guilty of the misconduct for which he was charged and a punishment of dismissal was imposed. This order was challenged by the respondent-workman by way of the present reference.

4. The Labour Court, after having examined the evidentiary material on record, came to the conclusion that the charges found to have been proved against the workman are sustainable and that the misconduct as alleged is established. However, the Labour Court found that the punishment imposed for such misconduct is disproportionate and excessively harsh. It may be noted here that the history sheet (default card), in respect of the respondent-workman was not produced before the Labour Court, on the basis of which it could possibly be urged (as is urged before me) that this conductor was a habitual offender so far as such misappropriations are concerned, and that he was on two earlier occasions imposed a punishment of dismissal, but has refused to improve his conduct. For this reason such and similar submissions raised by the learned counsel for the petitioner cannot be countenanced in this petition for the first time for want of appropriate evidence.

5. However, as a result of the hearing and discussion, learned counsel for the respective parties have arrived at a consensus on the basis of which they stated that the question of appropriate punishment is entirely left to the discretion of this court.

6. On the facts and circumstances of the case I am of the opinion that the punishment imposed by the Labour Court in its totality is too lenient and insufficient to inculcate the sense of honesty and integrity into such a workman, and somewhat stricter punishment is necessary.

I am, therefore of the opinion that the interests of justice would best be served by directing that the respondent-workman be reinstated with continuity of service without backwages and to further suffer stoppage of four increments with permanent effect. It is accordingly so directed.

7. This petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

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